

(c) *Electronic submission of declarations and reports.* (1) *General instructions.* Upon submission of the required certifications and approval of the company's request to use electronic submission, BIS will provide instructions on both the method for transmitting declarations and reports electronically and the process for submitting required supporting documents, if any. These instructions may be modified by BIS from time to time.

(2) *Declarations and reports.* The electronic submission of a declaration or report will constitute an official document as required under parts 712 through 715 of the CWC. Such submissions must provide the same information as written declarations and reports and are subject to the record-keeping provisions of part 720 of the CWC. The company and Web-DESI user submitting the declaration or report will be deemed to have made all representations and certifications as if the submission were made in writing by the company and signed by the certifying official. Electronic submission of a declaration or report will be considered complete upon transmittal to BIS.

(d) *Updating.* A company approved for electronic submission of declarations or reports under Web-DESI must promptly notify BIS of any change in its name, ownership or address. If your company wishes to have an individual added as a Web-DESI user, your company must inform BIS and follow the instructions provided by BIS. Your company should conduct periodic reviews to ensure that the company's designated certifying official and Web-DESI users are individuals whose current responsibilities make it necessary and appropriate that they act for the company in either capacity.

[69 FR 2502, Jan. 16, 2004]

PART 712—ACTIVITIES INVOLVING SCHEDULE 1 CHEMICALS

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SUPPLEMENT NO. 1 TO PART 712—SCHEDULE 1 CHEMICALS

AUTHORITY: 22 U.S.C. 6701 *et seq.*; 50 U.S.C. 1601 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 12938 (59 FR 59099; 3 CFR, 1994 Comp., p. 950), as amended by E.O. 13094 (63 FR 40803; 3 CFR, 1998 Comp., p. 200); E.O. 13128, 64 FR 36703.

SOURCE: 64 FR 73769, Dec. 30, 1999, unless otherwise noted.

§ 712.1 Round to zero rule that applies to activities involving Schedule 1 chemicals.

(a) See § 711.6 of this subchapter for information on obtaining the forms you will need to declare and report activities involving Schedule 1 chemicals.

(b) Facilities that produce, export or import mixtures containing less than 0.5% aggregate quantities of Schedule 1 chemicals as unavoidable by-products or impurities may round to zero and are not subject to the provisions of this part 712. Schedule 1 content may be calculated by volume or weight, whichever yields the lesser percent. Note that such mixtures may be subject to regulatory requirements of other federal agencies.

§ 712.2 Prohibitions involving imports of Schedule 1 chemicals.

(a) You may not import any Schedule 1 chemical unless:

(1) The import is from a State Party;

(2) The import is for research, medical, pharmaceutical, or protective purposes;

(3) The import is in types and quantities strictly limited to those that can be justified for such purposes; and

(4) You have notified BIS 45 calendar days prior to the import pursuant to § 712.5.

(b)(1) The provisions of paragraph (a) of this section do not apply to the retention, ownership, possession, transfer, or receipt of a Schedule 1 chemical

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by a department, agency, or other entity of the United States, or by a person described in paragraph (b)(2) of this section, pending destruction of the Schedule 1 chemical;

(2) A person referred to in paragraph (b)(1) of this section is:

(i) Any person, including a member of the Armed Forces of the United States, who is authorized by law or by an appropriate officer of the United States to retain, own, possess transfer, or receive the Schedule 1 chemical; or

(ii) In an emergency situation, any otherwise non-culpable person if the person is attempting to seize or destroy the Schedule 1 chemical.

NOTE TO §712.2: For specific provisions relating to the prior notification of exports of all Schedule 1 chemicals, see §742.18 of the Export Administration Regulations (EAR) (15 CFR parts 730 through 799). For specific provisions relating to license requirements for exports of Schedule 1 chemicals, see §§742.2 and 742.18 of the EAR for Schedule 1 chemicals subject to the jurisdiction of the Department of Commerce and see the International Traffic in Arms Regulations (22 CFR parts 120 through 130) for Schedule 1 chemicals subject to the jurisdiction of the Department of State.

§712.3 Initial and annual declaration requirements for facilities engaged in the production of Schedule 1 chemicals for purposes not prohibited by the CWC.

(a) *Declaration requirements.* (1) *Initial declaration.* You must complete the forms specified in paragraph (b)(1) of this section, providing a current technical description of your facility or its relevant parts, if you produced Schedule 1 chemicals at your facility in excess of 100 grams aggregate in any one of the calendar years 1997, 1998, or 1999. Note: Do not include production data in your initial declaration. Such information should be included in your annual declaration on past activities. See paragraph (a)(2) of this section.

(2) *Annual declaration on past activities.* You must complete the forms specified in paragraph (b)(2) of this section if you produced at your facility in excess of 100 grams aggregate of Schedule 1 chemicals in the previous calendar year, beginning with calendar year 1997. As a declared Schedule 1 facility, in addition to declaring the production of each Schedule 1 chemical that com-

prises your aggregate production of Schedule 1 chemicals, you must also declare the total amount of each Schedule 1 chemical used (consumed) and stored at your facility, and domestically transferred from your facility during the previous calendar year, whether or not you produced that Schedule 1 chemical at your facility.

(3) *Annual declaration on anticipated activities.* You must complete the forms specified in paragraph (b)(3) of this section if you anticipate that you will produce at your facility more than 100 grams aggregate of Schedule 1 chemicals in the next calendar year. If you are not already a declared facility, you must complete an initial declaration (see paragraph (a)(1) of this section) 200 calendar days before commencing operations or increasing production which will result in production of more than 100 grams aggregate of Schedule 1 chemicals (see §712.4).

(b) *Declaration forms to be used.* (1) *Initial declaration.* (i) You must complete the Certification Form, Form 1-1 and Form A if you produced at your facility in excess of 100 grams aggregate of Schedule 1 chemicals in calendar year 1997, 1998, or 1999. You must provide a detailed current technical description of your facility or its relevant parts including a narrative statement, a detailed diagram of the declared areas in the facility, and an inventory of equipment in the declared area.

(ii) If you plan to change the technical description of your facility from your initial declaration completed and submitted pursuant to paragraph (a)(1) of this section and §712.6, you must notify BIS 200 calendar days prior to the change. Such notifications must be made through an amended declaration by completing a Certification Form, Form 1-1 and Form A, including the new description of the facility. See §712.7 for additional instructions on amending Schedule 1 declarations.

(2) *Annual declaration on past activities.* If you are subject to the declaration requirement of paragraph (a)(2) of this section, you must complete the Certification Form and Forms 1-1, 1-2, 1-2A, 1-2B, and Form A if your facility was involved in the production of Schedule 1 chemicals in the previous